IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 24TH MAY 2007 / 3RD JYAISHTA 1929

WP(C).No. 15536 of 2007(Y)

PETITIONERS:
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1. **L.SAM FRANCLIN,**
   JOINT BLOCK DEVELOPMENT OFFICER,
   VAMANAPURAM BLOCK, VENJARAMOODU (P.O.),
   THIRUVANANTHAPURAM DISTRICT.

2. **MOIDUKUTTY,**
   EXTENSION OFFICER HOUSING, GRADE II,
   OTTAPPALAM BLOCK, OTTAPPALAM, PALAKKAD DISTRICT.

BY ADV. SRI.N.N.SUGUNAPALAN(SR.)
SRI.S.SUJIN

RESPONDENTS:
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1. **PRINCIPAL SECRETARY,**
   LOCAL SELF GOVERNMENT DEPARTMENT,
   GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. **COMMISSIONER FOR RURAL DEVELOPMENT,**
   L.M.S. COMPOUND, THIRUVANANTHAPURAM.

3. **STATE OF KERALA- REPRESENTED BY**
   CHIEF SECRETARY TO GOVERNMENT,
   SECRETARIAT, THIRUVANANTHAPURAM.

4. **KERALA PUBLIC SERVICE COMMISSION-**
   REPRESENTED BY ITS SECRETARY, PATTOM,
   THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.BIJOY CHANDRAN
BY ADV.SRI.P.C.SASIDHARAN SC., PSC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR,J.

WP(C)NO.15536 OF 2007-Y

Judgment

The petitioner has approached this Court, seeking the following reliefs :

> *"i) to issue a writ of certiorari or any other appropriate writ, order or direction to quash Ext.P8 order dated 12.04.2007 issued by the 1st respondent.*
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> *ii) to issue a writ of mandamus or any other appropriate writ, order or direction, directing the Government to make suitable amendments to the Special Rules namely, Ext.P1 for recruitment to the post of Block Development Officers to get promotion within a reasonable time of 8 to 10 years.*
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> *iii) to issue a writ of certiorari or any other appropriate writ, order or direction to quash Ext.P9 notification published by the Public Service Commission on 26.2.07 for appointment to the post of Block Development Officers under direct recruitment quota."*

Ext.P8 is attacked only on the ground that the representation of the petitioners, praying to amend the Special Rules for Development Departments in Kerala General Service, prescribing the qualifications and method of appointment to the post of Block Development Officer has been wrongly rejected. As per the Special Rules, a ratio of 1:1:1 is prescribed for appointment by promotion, transfer and direct recruitment to the post of Block Development Officer. The petitioners claim appointment under the promotion quota. Their

grievance is against the quota set apart for transfer. Their representation, claiming modification of the ratio has been rejected by Ext.P8 and the Public Service Commission has issued Ext.P9 notification, inviting applications for recruitment by transfer.

2. It is a well settled position in law that this Court cannot issue any writ of mandamus to the Rule making authority, to frame a Rule or amend an existing Rule. It is a legislative function. This position is covered by several decisions of the Apex Court and this Court. The leading decision on this point is ***Narinder Chand v. Union Territory of Himachal Pradesh*** (AIR 1971 SC 2399). Apart from that, the petitioners do not have any legal right to have the Special Rules amended in a particular manner and the Government do not owe any corresponding duty to them. Therefore, the challenge against Ext.P8 is repelled. The prayer for a writ of mandamus to direct the Government to suitably amend the Special Rules also cannot be granted. As long as the Special Rules are in force, there is nothing illegal with Ext.P9 notification, published by the Public Service Commission. In the result, the Writ Petition fails and it is accordingly dismissed.

24.05.2007 **K.BALAKRISHNAN NAIR,JUDGE**

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